CLECs and their end-users.[57] Manual processes not only increase the likelihood of service affecting errors, but also result in additional and unnecessary work for the CLEC and delays or disruption in furnishing service to a CLEC's end user customers.[58] In fact, in response to issues posed by the Texas Commission regarding SWBT's use of manual processes, Telcordia explained that "generally the situation is that a properly designed mechanized process *is better* than a properly designed manual process."[59] SWBT's reliance on manual processes undermines the goal of the FTA.[60]

CLEC experience with LEX/EDI continues to reveal that SWBT's ordering systems have significant weaknesses. For example, if a CLEC employee is working with a particular representative at SWBT and the order is manually processed, there is no way to assure that the order will be handled by that SWBT representative. If the order is placed in Folders, it is assigned to whoever happens to become available - SWBT's typists working in Folders are unable to see the CLEC's comments that say: "This is a hot issue-we need to be assured that SWBT representative X is able to do the follow-up."

In addition, CLECs receive rejects they cannot understand. It appears that SWBT representatives who reject orders may select from a pull down menu of "causes" for rejection and simply select the menu option that approximates the true reject reason. When the CLEC representative calls the LSC, there is no way to identify which LSC representative rejected the

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[57] Even Telcordia identified this as a problem by requiring as a "next step" for SWBT that it increase mechanization of performance reporting in order to reduce errors and delays, and to improve security and audit capabilities. SWBT Comments on Telcordia Final Report, p. 7.

[58] See, Northpoint Comments, October 13, 1999, p. 4; CLEC Coalition Comments, October 13, 1999, pp. 16-17; AT&T Comments, October 13, 1999, pp. 4-5 and pp. 7-9 all in Project No. 20000.

[59] 10/29/99 Transcript, p. 26:9-17.

[60] The full extent of manual processing needed to fulfill orders by SWBT is unknown. One indication of the magnitude, however, is the discussion of service orders contained in the Telcordia Final Report, which reveals that a particular service representative's manual data entry errors, missing customer due dates, appeared on over one-third (38%) of the records reviewed. AT&T Comments, October 13, 1999, p.30 in Project No. 20000. And see, Telcordia Final Report, Table 4-17, 4.5.4.3.1.

order and the LSC representative who takes the call may say the order looks fine and that it simply should be resubmitted.

The provision of services by facilities-based carriers to their end user customers occurs within a complex and fluid environment. End user customers may desire T-1s, an ISDN line, and basic business lines as part of their initial request for service. End users rightly expect to have their service smoothly cut over from SWBT, within a reasonable period of time, and on the due date given to them by the CLEC. As stated in NEXTLINK's affidavit,[61] a CLEC's business customers expect and need their telecommunications services to be seamlessly transferred and ultimately provided without lapse or degradation. Anything less than transparency can put a CLEC's business customers out of business. When SWBT's OSS causes needless manual fallout of orders, manual workarounds, and missed due dates, the customer's business suffers and the CLEC takes the blame.[62] Unfortunately, whenever things go bad for the CLECs, it is a win-win situation for the SWBT.

4. SWBT Has Not Provided CLECs with an Adequate Number of User Identification Codes to Access its OSS Interfaces

SWBT's management of its LEX/EDI ordering system demonstrates one of the barriers SWBT has erected that prevents ready access to its ordering systems. LEX/EDI is the pre-ordering and ordering interface CLECs use to access SWBT's UNEs. CLEC sales staff use the Toolbar system of LEX/EDI to obtain customer service records ("CSRs") for end users who wish to change to the CLEC's services; CLEC provisioning staff use Toolbar to generate local service requests ("LSRs") to actually provision service to these customers. In November 1999, NEXTLINK requested additional LEX user identification numbers; it took an incredible seven

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[61] See NEXTLINK Draper Affidavit at ¶ 20.

[62] CLEC Coalition Comments, October 13, 1999, p. 17 ("Because SWBT is provisioning items inaccurately . . . CLECs appear to their customers as unable to 'get anything right.'"). AT&T Comments, October 13, 1999, pp. 7-8 ("The cable and pair worked fine before conversion; inbound and/or outbound capability is lost or impaired following conversion."); p. 3.

weeks for SWBT to provide additional identification numbers, with no adequate explanation for the delay.[63] As a result, NEXTLINK's ability to provision service to its end-user customers was hampered because its entire provisioning team was forced to share three user identification numbers even as customer service requests continued to increase. NEXTLINK's inability to access the functions performed by Toolbar prevented NEXTLINK from formulating and placing orders for unbundled loops, and installing service to end user customers on a timely and non-discriminatory basis.[64]

ICG similarly experienced significant delay in SWBT's processing of ICG's identification code requests.[65] SWBT had said it would use its "best efforts" to issue a user code within roughly 10 days of the request; however, ICG's and NEXTLINK's experience shows that SWBT's attempts at "best efforts" are a failure.[66] Without sufficient identification codes, no CLEC can process orders on a mechanized basis. Although Gwen Rowling testified as to this problem during the November 2, 1999, Public Interest hearing at the PUC, it was not until this week, on Thursday, January 26, 2000, that SWBT cleared the backlog of user identification code requests.[67]

5. Orders Fall Out for Manual Processing and SWBT Is Unable to Coordinate Related Orders

In its Application, SWBT gives every impression that most CLEC orders can and should be processed on a mechanized, automated basis.[68] CLECs have found the opposite to be true.

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63 NEXTLINK Draper Affidavit at ¶ 6.

64 *Id.*

65 ICG Rowling Affidavit at ¶ 20.

66 *Id.* at ¶ 21.

67 *Id.* at ¶ 20. CLECs were informed on January 20, 1999, through the CLEC User Group, that SWBT plans to hold a trial allowing CLECs to manage their own Ids for the Toolbar system; however, the trial has not yet begun.

68 SWBT claims that the vast majority of CLEC orders entered via electronic interfaces, including LEX, "flow through SWBT's systems without manual intervention, on a nondiscriminatory basis." SWBT Brief in Support of Application, at p.88. SWBT states that "In October 1999, flow through rates for MOG-eligible CLEC orders placed

Under SWBT's LEX/EDI ordering systems, CLECs have the ability to receive a Mechanized Order Generated (MOG) FOC. In essence, this process allows service orders to be routed from one SWBT system to another without human intervention. It is NEXTLINK's experience that a majority of its orders fall out for manual handling, either because they are "MOG eligible" by SWBT standards but do not in fact MOG, or because they are complex orders and cannot MOG under the conditions that SWBT currently has established for its OSS ordering and provisioning systems.[69] Birch also has experienced numerous problems with the MOG module and, as a result, has been instructed by SWBT to force LSRs to drop out for manual processing at the LSC.[70] Contrary to the positive spin SWBT has placed on its ordering and provisioning systems in its Application, these systems today are configured so poorly that when NEXTLINK orders even simple stand alone loops, which should MOG, these orders generally do not MOG and must be manually processed.[71] More importantly, typical orders passed to SWBT by CLECs, such as orders for BRIs and DIDs, are rated "complex" by SWBT and in most cases cannot be handled by SWBT in an efficient, automated manner.

CLECs' experience in Texas is that SWBT is not staffed to provide as much manual processing as its systems presently require.[72] Problems that arise from SWBT's reliance on manual processes thus cause service delays for CLECs that negatively impact their end users and for which end users hold the CLECs accountable. Birch's conclusion based on its experience is that SWBT was incapable of properly and efficiently accommodating the amount of manual

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via EASE and EDI were above 95 percent, and superior to SWBT's own flow through rates" (citing Ham Affidavit, ¶¶ 82-83 and Dysart Affidavit, ¶132.

69 NEXTLINK Draper Affidavit at ¶ 25.

70 Birch Affidavit at ¶ 26.

71 NEXTLINK Draper Affidavit at ¶ 25.

72 ICG Rowling Affidavit at ¶¶ 31-33; see CompTel and TEXALTEL Comments, October 13, 1999, pp. 11-12.

processing required of it by its own lack of mechanized systems during 1999, much less accommodate the level of commercial orders expected to be submitted this year.[73] Telcordia reported this issue as "Manual SWBT error."[74] The retest of these issues notes that no action was taken because the retest period ended prior to the receipt of the SOCs. Failure to properly staff the LSC, as SWBT admitted in its September 15, 1999 meeting with Birch, injured Birch and its ability to compete with SWBT. SWBT's failures unfortunately work to its advantage, because in the minds of consumers they only serve to "prove" that it is better to remain with the incumbent than risk one's business by switching to a CLEC.[75]

In addition to the errors just discussed and these specific problems associated with the LSC, there are several types of CLEC orders that frequently fall into a SWBT system called "Folders" to be manually processed. These orders can be orders that either were intended to MOG, but failed to do so, or always were intended to be manually processed by SWBT, such as complex orders.[76] Once an order falls into the Folders system, CLECs experience service affecting problems associated with manual processing.

SWBT's inability to coordinate manually processed orders is particularly evident with RPONs, which often fall into the Folders system.[77] A facilities-based CLEC will often submit an order that requires SWBT to process several PONs or LSRs for that one order (*e.g.*, one customer orders a T1, PRI, DID and basic lines). An order of this nature thus may generate four to five different PONs in the SWBT system. All of the related orders must be worked together or the CLEC's customer will lose service.

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73 Birch Tidwell and Kettler Affidavit at ¶ 130.

74 Telcordia Final Report, T29, T31, T37, p. A-25; See Retest Issues List UL-RT-12 and 16, at pp. A-53-55 and A-60-61.

75 Birch Tidwell and Kettler Affidavit at ¶ 38.

76 NEXTLINK Draper Affidavit at ¶ 26.

77 *Id.* at ¶¶ 25-29.

While CLECs are permitted to use a field on the LSR, the RPON field, to facilitate SWBT's coordination of the multiple PONs, using that field appears to do nothing to further the proper completion of the order. In practice, SWBT is often unable to relate the orders to each other as one order even when the field is used.[78] CLECs have learned that frequently the orders will be disassociated by SWBT (worked at different times), resulting in the end user's service being disrupted. It is always the CLEC that is held accountable, never SWBT, when a customer is poorly served.

NEXTLINK believes that SWBT escapes this issue when trying to coordinate PONs in its own retail system, because SWBT uses an unfielded section of the service order that shows SWBT personnel an indicator signifying that an individual PON is part of a "Related Order" or "RO." NEXTLINK has never been given the opportunity to use this option. Although Telcordia's review of SWBT's OSS processes confirmed that "[t]here is a field on the LSR that can be populated to relate those orders, and they can also place - -'they' being the CLEC - - can place it all to the LSC to have those orders related,"[79] SWBT denied that its systems have this capability.[80] The underlying confusion among SWBT, Telcordia and CLECs appears to be due to the fact that Telcordia is the software vendor for SWBT and, as explained by SWBT, the software is inherently limited: "In fact, it's a limitation on a software product we buy from Telcordia."[81]

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78 *Id.*

79 10/20/99 Transcript, p. 244:6-10.

80 10/20/99 Transcript, p. 246:9-17. Apparently, the Accessible Letter addressing this issue merely stated the following: "Important. If the RPON field is populated, then the LSR is not issued. The LSC will reject the LSR contained in the RPON" (10/20/99 Transcript. p. 250:21-24). In response to MCI WorldCom's description of the Accessible Letter, Chairman Wood responded "What she just read to me wouldn't have told me a lot . . . . . (10/20/99 Transcript, p. 252:20-22).

81 10/20/99 Transcript, p. 255:6-7. AT&T was particularly concerned that with respect to RPON issues, Telcordia was both able to render an opinion and close the issue when, in fact, Telcordia had actually designed the product that appeared to be the root cause of the problem. (10/20/99 Transcript, p. 255:6-7.)

Another SWBT provisioning problem NEXTLINK experiences is SWBT's requirement that one LSR be forwarded to procure a loop facility and a separate LSR to obtain local number portability ("LNP") for that same loop. A majority of NEXTLINK's customer orders consist of a request for both loop facilities and LNP, necessitating two LSRs. Loop and LNP LSRs are intertwined because CLECs cannot provide service unless both of these services (*i.e.* LNP and loop) are provisioned at roughly the same time. NEXTLINK's experience is that, not only are such related LSRs independently processed through SWBT's systems, but SWBT apparently lacks the functionality to ensure that these orders remain firmly connected within SWBT's operational system.[82]

SWBT's inability to interrelate LNP and loop orders for the same customer within its system requires CLECs to expend significant time and resources to ensure sure that the SWBT FOC dates for the two LSRs per customer are within the same timeframe.

Finally, one also must understand that SWBT's system generates three orders (Change-C, New-N, Disconnect-D) just to accomplish the migration of a retail line to an unbundled switch/port and loop combination. The generation of multiple orders also occurs when a CLEC orders a standalone UNE-Loop, where a C and D order are created. For this same function Bell Atlantic apparently generates only one order.[83] When the D order flows through but the orders do not, the customer's service is disconnected without new service being provided.[84]

SWBT's response to the problems arising from its inability to relate associated PONs, was to propose that on an interim basis all RPON-type orders fall out for manual processing.[85]

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[82] NEXTLINK Draper Affidavit at ¶ 29.

[83] Birch Tidwell and Kettler Affidavit at ¶ 46.

[84] In many cases one order will be held up in SWBT's Legacy systems while the others flow through. The result of the orders not being processed as a coordinated group is loss of dial tone, loss of long distance, loss of vertical features, loss of outbound calling and other service affecting problems, all of which have been experienced by Birch. Birch Tidwell and Kettler Affidavit at ¶¶ 37-39.

[85] 11/2/99 Transcript, p. 130: 7-18.

Only recently, however, SWBT announced at the CLEC User Group meeting that even this inadequate interim measure would not be available, as initially expected, during first quarter 2000. SWBT's failure to provide an adequate solution, even a basic interim solution, occurred even though SWBT's internal OSS expert stated on the record in Texas that "I think the manual process should accommodate the *mission criticalness* of what you're after,"[86] that is, the ability of SWBT to prevent related orders from being disassociated and negatively impacting CLEC customers.

6. Problems Associated with UNE-P Orders

When Birch places an order in LEX to migrate a SWBT retail line from SWBT to Birch's network using UNE-P, the order generally follows the process flows described in the Ham Affidavit at paragraph 197. Upon entering the SWBT legacy systems, SORD creates three separate orders: the D (Disconnect) N (New) and C (Change) orders. The relationship among these three orders, however, is not strong and the orders frequently become disassociated within SWBT's legacy systems.[87] In many cases one order will be held up in the SWBT legacy systems while the others will pass through the system.[88] This causes a number of service affecting problems including loss of dial tone, loss of long distance service, loss of vertical features, loss of outbound calling, double billing and an inability to call certain local numbers.[89]

The problems caused by multiple orders becoming disassociated can only be rectified through manual intervention in the SWBT back office systems.[90] Unfortunately, manual intervention after order distribution in SORD is not captured by performance measurements and

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86 *Id.* at p. 131: 12-14.

87 Birch Tidwell and Kettler Affidavit at ¶ 46.

88 Often SWBT makes software upgrades and changes to its legacy systems, without notification to CLECs, that cause new errors to occur. *Id.* at ¶ 47.

89 *Id.*

90 *Id.* at ¶ 38.

it is extremely problematic that such critical activity is captured or reflected in SWBT's performance measurement data.[91]

Moreover, only CLEC orders are subjected to this multiple order process that significantly increases the likelihood of service disruption. While SWBT repeatedly asserts that the legacy systems process CLEC wholesale orders "indiscriminately" with SWBT retail orders,[92] SWBT neglects to mention that only wholesale orders are split into three orders. Neither Telcordia nor SWBT have been able to demonstrate that SWBT's retail orders suffer this same splitting.[93]

7. Loss of Dial Tone Upon Conversion

Several CLECs reported to SWBT and the Texas Commission that upon conversion to UNE-P, the CLEC's customers lost dial tone.[94] Historically, problems due to lost dial tone were reported to SWBT as trouble reports, which SWBT refused to accept because the CLEC order had not posted in SWBT's systems. Occurrences of lost dial tone upon conversion occurred so often, however, that Birch was forced to file a complaint with the Texas Commission. At a meeting to resolve the issues, SWBT reported that the loss of dial tone experienced by Birch customers had been caused by SWBT manual input errors into the Reuse Related Service Order ("RSSO") process, the process used to relate orders.[95]

Although SWBT has known for a significant period of time that these problems exist, SWBT has not corrected the situation. Instead, SWBT now attempts to avoid implementing a

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91 *Id.*

92 SWBT Ham Affidavit at ¶ 198.

93 *Id.* at ¶ 42.

94 Birch has experienced significant problems with loss of dial tone, Birch Tidwell and Kettler Affidavit at ¶ 63; orders stuck in FOC status at ¶ 71; orders stuck in error status at ¶ 76; hunt lines at ¶ 81; LIDB at ¶ 86; call notes at ¶ 90; and double billing at ¶ 91.

95 Loss of dial tone affected Birch for more than two months prior to its filing for relief at the Texas Commission. Birch Tidwell and Kettler Affidavit at ¶ 47.

permanent solution by claiming that a permanent fix would severely delay other necessary fixes to systems such as the Line Information Database System ("LIDB").[96] Further, although CLECs understand the problems to arise from manual processing errors, and Telcordia observed several instances of these problems during testing, Telcordia reported that a number of causes could be resulting in a loss of dial tone upon conversion. Thus, no progress is being made toward resolving this critical issue.

8. Manual Processing Skews Time Stamps and Affects Performance Measurements

Although SWBT's automated system generates FOCs, when a CLEC's order falls out for manual processing or when it is never intended to be mechanically processed, the time stamp placed on the FOC may be different from the time stamp it would have had if the order was properly processed in a mechanized fashion. The fact that the time stamp on the FOC may differ depending on whether the order is processed manually or mechanically skews performance measurement- related data.

When an order is manually processed, a SWBT employee types in the receipt date and time on the order in SORD[97] to indicate the FOC. If the order is electronically received by the LSC at 2:00 p.m., for example, and would be stamped accordingly if processed mechanically, the fact that the order falls out for manual processing means that the SWBT employee who begins reviewing the order at 4:00 p.m. can stamp 4:00 p.m. as the receipt time. No SWBT policy prohibits or prevents this from occurring. The time stamp is critical because orders "received"

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96 *Id.* at ¶ 51.

97 SORD permits SWBT's retail operations to create, edit, distribute and control requests for changes to customer's service accounts and records. SWBT stated that SORD has been generally available to CLECs since April 1999. However, Birch has been requesting access to SORD since April 1997. SWBT requires CLECs to be trained on its system. The first generally available training class on SORD for CLECs was not held until November 1999, at least seven months after it was supposed to be generally available. Birch Tidwell and Kettler Affidavit at ¶¶ 19-21.

after 3:00 p.m. may be processed as if they had been received the *following* day, and an entire day, not just several hours, will have been added to the FOC interval.[98]

Performance measurements track whether SWBT is returning FOCs in a timely manner, generally within 24 hours. SWBT representatives have unfettered discretion and a clear incentive to manually enter a late start date to allow more time for the FOC response. Without appropriate controls in place, SWBT representatives may feel pressure to take advantage of the "flex" in the system, thereby undermining the objective of the performance measure.

In examining the validity of SWBT's Performance Measurements and especially those measures that rely on manual processing, Telcordia determined that errors had occurred in manual processing of the data. For June 1999, Telcordia completed an evaluation of the data accuracy, calculations and reported percent availability for PM 4, "OSS Availability for Toolbar." Telcordia's objective was to track down the origin of an incident that resulted in significant downtime from the Toolbar Logs, which are the source of the Start and Finish time stamps that indicate the duration of an outage.[99] This particular manual processing error was the subject of further analysis and discussion by the Texas Commission. Telcordia's explanation when questioned by the Commissioners was that the error arose because, unlike the rest of the data collection that was substantially mechanized, this part of the process was manual and the wrong column of data was transferred by the PM coordinator to the final spreadsheet that is posted to the website for the PM.[100] Although it was clear that the accuracy of this data was essential, Telcordia never attempted to validate the initial manual entry of the data onto the data log.[101] When asked to explain why this critical PM, PM 4, was subject to such extensive manual

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98 NEXTLINK Draper Affidavit on behalf of NEXTLINK at ¶¶ 31-32.

99 See Telcordia Final Report, p. 154, 6.4.2.3.

100 Transcript, 10/21/99, p. 336: 13-20.

101 Transcript, 10/21/99, 337: 12-18.

intervention, SWBT's internal expert responded: "So its more of a system limitation where there's nowhere to record that information [date and stop times] in a mechanized system."[102]

Although in the instance of PM4, the reconciliation of the error resulted in a positive result for SWBT, the fact that SWBT's processes require so much manual manipulation and result in so many errors is a shortcoming CLECs find most troublesome. PMs 113 and 114, the two PMs that address coordinated conversions (premature disconnects and delayed disconnects) are entirely dependant on a technician manually entering the start and stop times after completing a cut-over.[103] Manual intervention not only has been proven to cause service affecting problems, but also hinder CLECs' and the Texas Commission's ability to evaluate SWBT's progress in opening its markets because performance data also are collected and correlated manually.

9. SWBT Routinely Misses FOC Dates

In evaluating whether SWBT's OSS complies with the section 271 competitive checklist, the Commission must examine whether SWBT provides competitors with nondiscriminatory access to automated notifications, such as FOCs, errors, rejects, jeopardies and SOCs. Access to FOCs and jeopardy notices allows CLECs to monitor the status of their orders and to track their orders' status for their own, and their customers', records.

As the Commission has recognized, owing to their use as barometers of performance, FOC and jeopardy/rejection notices play a critical role in a CLEC's ability to keep its customer apprised of installation dates (including changes) and to modify a customer's order prior to installation. Further, the Commission has recognized that the inability to provide CLECs with timely FOCs is a significant indicator of whether a BOC's OSS is capable of providing competitors with parity performance.

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[102] Transcript 10/21/99, p. 349: 17-23.

[103] Transcript 10/21/99, pp. 343: 21 to 344: 18.

SWBT's ability to provide CLECs with FOC and jeopardy notice information in a manner that complies with the Act is unproven, despite SWBT's claims in its Application. For example, SWBT continues to report to CLECs on a significant number of orders that there are no facilities available.[104] Because there is no deadline by which SWBT must make facilities available, SWBT will often return a jeopardy notice with no new due date, forcing the customer to be without service. Even when SWBT submits jeopardy notices, they often are late. More importantly, Telcordia confirmed that a large number of provisioning problems for "no facilities" were due to SWBT manual error.[105]

10. Problems Created by Multiple Due Dates

Telcordia reported that CLECs sometimes receive multiple due dates from SWBT for the same order. CLECs appear to be receiving more than one due date because (1) SWBT sends an electronic "MOG FOC" within the performance measurement interval and (2) then sends a jeopardy notice several days later that reflects the date SWBT is most likely to provision the service.[106] When CLECs receive more than one due date it generally means that the initial date given to the CLEC's customer likely will be missed. Multiple FOCs affect not only the provisioning of service, but also the validity of the performance measures. Even if SWBT's systems intentionally are designed to operate in this manner, in a competitive arena this is a systemic defect. CLECs must be able to provide their customers with a due date upon which both the CLEC and the customer can rely.

11. Problems Occurring at the End of the Ordering Process

Manual processing causes problems for CLECs even when orders are completed to the point at which service is provided to the end user, because an order may still fall out for manual

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104 NEXTLINK Barron Affidavit at ¶¶ 20-21.

105 Telcordia Final Report, UL-RT-03, 101, at pp. A-40-41. See also NEXTLINK Draper Affidavit regarding SWBT's performance in this area at ¶ 15.

106 NEXTLINK Barron Affidavit at ¶¶ 12.

processing by the Error Resolution Team. During the period in which the order has fallen out, when a SOC has yet to be generated, the end user likely will erroneously receive bills from both SWBT and the CLEC. It has been NEXTLINK's unfortunate experience to have orders remain in error status for 30 days or longer before SWBT corrects the errors and the orders post.[107] CLEC customers who are double-billed justifiably may question the wisdom of having changed service providers.

Birch customers have on a number of occasions contacted Birch because they were double billed.[108] After investigating its customer's concerns, Birch was able to determine that in certain instances the SWBT "D" order is not being processed until long after the "C" has completed to posting.[109] As a result, Birch has been unable to update the LIDB database to make corrections to its customers' accounts.[110] NEXTLINK customers have also experienced double billing as a result of SWBT's flawed systems. Since tracking this issue in November 1999, NEXTLINK has become aware of at least 12 customers receiving bills from SWBT even though NEXTLINK is providing service.[111] In fact, two customers actually received notices from SWBT's collocation firm for nonpayment of bills in error.[112]

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107 *See* NEXTLINK Smith Affidavit at ¶ 4.

108 *Id.* at ¶ 81.

109 *Id.*

110 CLECs' customers are affected in several ways when a supplement is not processed beginning with a disconnection of service. For example, when SWBT's downstream systems are not alerted of supplements that are made on orders, incorrect billing is more likely to occur. Billing accuracy is difficult to measure because research is necessary to identify when the billing information is properly on a bill. But billing is not the only effect of unalerted downstream systems. These customers may not be able to have maintenance or repairs on their lines because the systems will not identify the owner of the lines. Further, a customer's order is unlikely to be provisioned correctly if the supplements are not applied to the entire order. The customer does not blame its old carrier for these problems, because after all it worked fine when service was obtained from the ILEC. Instead, they blame the CLEC and assume that the CLEC is incapable of providing the required level of service.

111 NEXTLINK Smith Affidavit at ¶ 5.

112 *Id.*

ICG also experienced problems at the end of order processing where loops were installed, but SWBT failed to notify ICG of the SOC.[113] Again the problem is manual intervention. The failure of SWBT LSC's to adequately explain these types of errors indicates that, even where a process may have been corrected, SWBT may have failed to implement its own training plans to ensure adequate processing. SWBT has acknowledged problems and issues regarding training to ICG.[114]

Telcordia experienced similar difficulties with SWBT's Error Resolution Team when Telcordia was trying to close an issue related to a particular performance measure. In performing its root cause analysis, Telcordia found that a certain N order had fallen out for processing by the Error Resolution Team and was *never* resolved. Telcordia was forced to contact SWBT and have the problem referred to the cable pair resolution group before Telcordia was able to close the item.[115] According to Telcordia, this was another instance of human error at SWBT related to the manual processing of orders.

SWBT has admitted that the problems associated with errors that occur after CLEC receipt of a FOC are due to the inadequacies of the SWBT systems. SWBT's ordering and provisioning systems allow it to only perform *one* correction at a time: "So if there are two or three things that needed to be changed for posting reasons, then that would be a series of days that would be required."[116]

SWBT's manual processing of orders, from FOCs to SOCs, makes purchasing telecommunications service from an alternate provider needlessly stressful on the end user and the CLEC.[117] A CLEC's reputation in the business community rises and falls on its ability to

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113 ICG Rowling Affidavit at ¶ 24.

114 *See* ICG Rowling Affidavit at ¶ 27.

115 10/21/99 Transcript, pp. 403: 5 to 404: 2.

116 Transcript 10/21/99, p. 412: 4-8).

117 *See* NEXTLINK Smith Affidavit at ¶ 4, and NEXTLINK Draper Affidavit at ¶ 20.

seamlessly provide telecommunications service to its end users. Through no fault of the CLEC, its reputation may be irreparably harmed by the inherent limitations of the OSS systems that SWBT makes available to CLECs in Texas.[118]

12. OSS-Related Maintenance and Repair Issues

A CLEC must manually send a trouble ticket to the LOC if the order fails to post and must refer to the Accessible Letter notifying the CLEC community of this change in procedures. This Accessible Letter, however, was not distributed until November 1999, long after it was needed.[119]

While SWBT is quick to state that a similar process exists for retail orders, SWBT fails to mention that the chances of a posting problem occurring with regard to its retail services are significantly less. More importantly, SWBT's representatives have confirmed that the majority of orders that must be typed to completion are CLEC orders.[120]

Birch is finding that its trouble tickets are not entered in SWBT systems. This is probably one reason why Birch reports a much higher trouble rate in the performance measurements than SWBT reports.[121] Experience has shown that trouble is most likely to occur on the line soon after conversion. However, due to problems with SWBT's maintenance and repair systems, a customer's account is often in an undetermined status. If the customer contacts Birch to resolve the trouble, Birch is often unable to assist the customer because SWBT's Local Operations Group states that the customer is not yet a Birch customer.[122] Only recently has SWBT permitted

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118 *Id.*

119 Birch Tidwell and Kettler Affidavit at ¶ 75.

120 Birch Tidwell and Kettler Affidavit at, ¶ 76.

121 *Id.* at 77.

122 *Id.*

Birch to send in a trouble ticket without the Circuit ID, which allows SWBT to perform the required work.

13. Inadequate LSC Staffing

SWBT's CLEC account team is insufficiently staffed. NEXTLINK understands that the SWBT account representative currently assigned to NEXTLINK and ICG is also responsible for serving at least two other CLEC clients in Texas.[123] NEXTLINK and ICG have experienced great difficulty in obtaining timely responses to requests and issues raised with the SWBT account representative.[124] The inability of these CLECs to receive timely responses from SWBT's account team has resulted in unnecessary backlogs and has delayed their ability to serve its customers on a timely basis.[125]

CLECs not only have endured SWBT account teams that are poorly staffed and handling unreasonable work loads, but also experienced the detrimental effects high turnover rates at SWBT's LSC and LOC.[126] For example, in less than four months, NEXTLINK has had three different LSC first-line service managers, two different LSC second-line managers, two account managers, and two different second level LOC service managers. Moreover, NEXTLINK's experience reveals that SWBT personnel at the LSC are not adequately trained to properly service their CLEC customers. NEXTLINK has had numerous examples of LSRs that were accepted by one SWBT account representative, yet subsequent LSRs submitted in an identical format were rejected by a different SWBT account representative.[127]

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123 NEXTLINK Draper Affidavit at ¶ 11.

124 *Id.* at ¶ 10.

125 ICG Rowling Affidavit at ¶ 35.

126 NEXTLINK Draper Affidavit at ¶ 10.

127 *Id.* at ¶¶ 7 and 30.

While Telcordia reviewed SWBT's Force Model to determine whether SWBT's staff training and recruiting practices were adequate, Telcordia did not evaluate whether particular groups are staffed appropriately.[128] It is especially important that all discrete areas are staffed to accommodate demand because otherwise the personnel who are trained to handle particular orders may not be present. Not all representatives are trained to process all order types. In fact, due to a manpower shortage, as recently as November 1999, Birch experienced several more instances of lost dial tone in which the CAST group was unavailable and calls to report trouble could not be taken.[129]

14. SWBT Policies are Inadequately Communicated

Since December 1998, SWBT had been accepting NEXTLINK orders that contained a dash in the PON field. Suddenly, on October 11, 1999, SWBT decided to reject PONs with a dash in the number without notifying CLECs or even SWBT's own account representatives in the field.[130] As a result, every NEXTLINK order was rejected for an entire business day.[131] The following month SWBT again changed its LSOR enforcement policy and began accepting orders with a dash in the PON field.[132] SWBT's ad hoc and seemingly arbitrary method of enforcing its guidelines, combined with its failure to communicate changes in policy injects a level of confusion into the pre-ordering, ordering, provisioning and maintenance process that is unnecessary and disruptive. Moreover, the rejection of orders due to these ad hoc changes needlessly interferes with CLECs' ability to compete with SWBT in the marketplace.

Besides these changes in policy, SWBT further fails to communicate its internal business rules to CLECs in a timely fashion. Upon inquiring as to why orders were rejected, for example

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128 Birch Tidwell and Kettler Affidavit at ¶ 114.

129 *Id. at* ¶ 116.

130 *See* NEXTLINK Draper Affidavit at ¶ 7.

131 *Id.*

132 *Id.*

SWBT typically has informed NEXTLINK that notice of changes were made via SWBT Accessible Letter. NEXTLINK is not alone in its failure to receive accessible letters until after SWBT internal business rules have already been changed. For example, to NEXTLINK's knowledge, no Accessible Letter exists that details the specifics of the process to be followed when one CLEC ports service from another CLEC and uses a SWBT loop to provide service.[133] Moreover, SWBT has failed on numerous occasions to post Accessible Letter notices on its Internet website prior to implementing new business practices. SWBT's failure to provide adequate advance notice of internal business changes is an example of the inadequacies of SWBT's change management process that imposes of substantial costs on CLECs while it impairs their ability to obtain non-discriminatory access to unbundled loops and other network facilities.

15. Unavailability of Raw Data to Validate SWBT's Performance

As with many other CLECs in Texas, ICG is unable to audit SWBT's performance because ICG has no reasonable access to its own raw data. Although the T2A addresses a CLEC's ability to request and analyze its data, the ability to access this data is limited to CLECs adopting the T2A. SWBT's sweeping statements of checklist compliance in its Application are a source of extreme concern among the Texas CLEC community when their experiences are fundamentally at odds with SWBT's assertions. SWBT's Application will be reviewed and considered in large part in light of the record on SWBT's ability to meet performance requirements, yet this process may occur without many CLECs being able to evaluate the validity of SWBT's allegations.[134]

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[133] Please see CLEC to CLEC porting issues *infra*.

[134] SWBT provided detailed metrics information related to flow through for EASE, however, despite repeated requests for similar information applicable to LEX, SWBT has failed to provide the necessary information. Birch Tidwell and Kettler Affidavit at ¶ 34.

On October 26, 1999, ICG requested the raw data for nine performance measurements for the months of July and August 9, 1999. ICG specifically sought this data from SWBT because the Texas Commission had reviewed SWBT's July, August and September data in an attempt to develop an analytical overview of SWBT's performance. The timeframe of the data that ICG requested would have allowed ICG to compare two months of data that specifically matched the timeframe the Commission had reviewed.

The nine measurements requested by ICG were PM 5 (percent of FOCs Returned); PM 6 (Average Time to Return FOC); PM 7 (1 percent of Mechanized Completions Available within One day of Work Completion); PM 8 (Average Time To Return Mechanized Completions); PM 9 (percent of Rejects); PM 60 (percent of Missed Due Dates Due to Lack of Facilities); PM 61 (Average Delay Days for Missed Due Dates Due to Lack of Facilities); PM 65 (Trouble Report Rate); and PM 69 (percent of Repeat Reports).[135] ICG selected these measurements because it had monitored these measurements in previous months. As a general matter, ICG was concerned that its commercial experience was not being reflected accurately in SWBT's reported performance measurements.

ICG's Local Account Manager indicated that he submitted the request to the appropriate SWBT departments on October 28.[136] On November 2, the Account Manager notified ICG that the data would be available in approximately one week. No one from SWBT contacted anyone at ICG regarding any problem in securing the requested data.[137] When the data were not provided by December 2, ICG contacted its Account Manager and at that time, he notified ICG that SWBT would not provide to ICG or any other CLEC raw data for the months of July and August. He stated that SWBT would be willing to provide only September data.

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135 ICG Rowling Affidavit at ¶ 6.

136 *Id.* at ¶ 7.

137 *Id.* at ¶ 8.

ICG's Account Manager e-mailed twelve attachments with a message that the attachments contained the data for September. Because it was unclear as to which performance measurement was associated with each attachment, ICG requested information to sort the data. SWBT responded via a letter dated December 14, stating that: "Any analysis of this data is the responsibility of ChoiceCom." SWBT's letters stated that ICG's current interconnection agreement did not allow ICG to receive raw data without incurring additional fees.

SWBT also stated that it would be willing to provide additional raw data for an additional charge. When ICG inquired as to the amount of the "additional charge" that would be assessed to ICG in the event that it requested one month's data of the same nine performance measurements, SWBT did not provide a response for a month. Finally, on Saturday, January 29, 2000, at 4:55 p.m. CST, ICG's Account Manager e-mailed a message that SWBT would charge $3000 for similar data requests. Thus, if a CLEC were to request the data for all performance measurements, the fee presumably would be approximately $40,000 for one month's data. Few CLECs could afford to request a full set of raw data points. Certainly, ICG could not incur that magnitude of cost. It is certainly ironic that SWBT chose to finally respond to ICG's request in the last five minutes of the business day immediately before comments were due on its 271 Application.

Performance Measurements

In determining whether SWBT is performing as requested by the Texas Commission, it is particularly important to determine what data are being reported, especially given the difference between CLEC's commercial experience (which suggests that poor performance exists) and the data SWBT reports in its Application and measurement results. The discrepancies NEXTLINK has discovered between its data and SWBT's data reported for November and December 1999, certainly appear to call into question the accuracy of the statistics SWBT has reported to the Texas Commission and this Commission. For instance, in evaluating the timeliness of the return of FOCs, for November and December 1999, and the number of orders impacted by SWBT

missed due dates because of a lack of facilities, NEXTLINK has determined that its data differ significantly from the data reported by SWBT. SWBT has reported near perfect performance for timely return of FOCs for UNE loops without Local Number Portability ("LNP") (PM 5) and this does not comport with the data provided by SWBT to NEXTLINK.[138] As for "Average Delays Due to Lack of Facilities," SWBT again asserted near perfect performance, which is contradicted by NEXTLINK's analysis.[139] Finally, SWBT's actual performance in porting orders with LNP for 1-9 lines is absolutely abysmal; SWBT has yet to meet the benchmark for NEXTLINK for this sub-measure of PM 94 since it was created in August.

As discussed above, due to a lack of documentation,[140] it is extremely difficult to validate SWBT's performance. For instance, UNE-based CLECs are aware that their orders are being subjected to a higher likelihood of service disruption by the possibility of disassociation of the multiple orders generated in SWBT's back office systems, yet SWBT's performance measurement data continues to reflect better than actual performance, if not near perfect performance. It appears that as a result of the three D, N and C orders that SWBT's back end systems generate, SWBT is able to report performance that is far better than what CLECs are experiencing.[141] For Birch's Texas data, where Birch uses only UNE-P, it is clear that the flow through performance data for Birch reflects an inflated level of performance.[142] In addition, because customers are generally unaware that if certain "features" are missing it will severely disrupt the customer's service (*e.g.*, whether the customer is being served with a 5 db loop or an 8 db loop), a CLEC must rely on the customer service record, the CSR, to order service that

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138 NEXTLINK Barron Affidavit at ¶¶ 11-16.

139 *Id.* at ¶¶ 19-22.

140 *supra*, pp. 38-40.

141 Birch Tidwell and Kettler Affidavit at ¶ 97.

142 *Id.*

mirrors that which was being provided by SWBT.[143] This information is not on the CSR. As a result, when the service is provisioned according to the service that is ordered, SWBT classifies the trouble as "CLEC error" and does not count the trouble reports in the performance measurement.[144] Thus, it appears that in spite of the fact that SWBT is clearly performing on a subpar, anticompetitive level, somehow it is able to inform this Commission that its performance either exceeds all of the benchmark levels or is near perfect.

In addition, Birch has been able to identify below parity performance for FOC Intervals, Percent Mechanized Orders Completing within One Hour of SORD completion and other critical areas.[145] According to SWBT, 95% of SOCs were returned within one day of completion, while Birch's analysis indicates the percentage to be closer to 90%.[146] Moreover, Performance Measures 10.1 and 11.1 indicate that SWBT performed extremely poorly in October with regard to these measures. Birch's sampling reflects that SWBT met these performance measures only 54% of the time.[147] Thus, the discrepancies found by both NEXTLINK and Birch indicate that the glowing performance described in SWBT's Application requires substantial and independent scrutiny.

C. Checklist Item IV - Access to Unbundled Local Loops

1. Coordinated Hot Cuts

ICG initially experienced a substantial level of resistance to effectively addressing problems associated with "coordinated hot cuts." Because ICG frequently encounters provisioning problems due to SWBT's "lack of facilities," ICG is forced to perform "coordinated hot cuts" in which SWBT's loops are reused. Although SWBT repeatedly agreed with ICG that,

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143 *Id.* at ¶ 100.

144 *Id.*

145 *Id.* at ¶¶ 101-119.

146 *Id.* at ¶ 106.

147 *Id.* at ¶ 108.

as a rule of thumb, a "lift and lay" should take approximately 15 minutes per line, as a matter of commercial experience, the hot cuts performed by SWBT were lasting several hours. It was not unusual for an eight line customer to be without dial tone for eight hours.

ICG held numerous meetings with SWBT to find a solution to this issue. Because other CLECs were also complaining about their experiences with "hot cuts," SWBT finally developed procedures that appear to improve the situation. ICG acknowledges that SWBT's performance has improved significantly; however, it took considerable effort on the part of ICG and other CLECs to bring SWBT to the point of effectively dealing with the problem. Furthermore, in spite of the much needed progress that has occurred, CLECs have no assurance that SWBT has implemented permanent and lasting solutions.

In addition, NEXTLINK has frequently experienced problems associated with facilities delivered by SWBT for hot cut and flow through orders. NEXTLINK often receives SWBT facilities that are not operational upon delivery, preventing NEXTLINK from timely providing service to its end users.[148] In a recent sample taken during the last week of December 1999, a significant number of NEXTLINK orders, affecting a large number lines, were severely impacted.[149] The severity of this problem cannot be overstated. As a result of consistent problems with hot cuts, NEXTLINK customers are unnecessarily harmed. In many instances, NEXTLINK must find creative means to even have service provided to its customers.[150] Furthermore, the fact that no existing performance measure currently tracks these types of service-affecting problems creates even graver concerns.

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148 NEXTLINK Baron Affidavit at ¶ 24.

149 *Id.* at ¶ 25.

150 *Id.* at ¶ 26.

E. Checklist Item VIII - White Pages Directory Listings

SWBT contends that, with regard to White Pages directory listings, "SWBT has consistently met all performance benchmarks for both timelines and accuracy."[151] It may be true that SWBT has met the benchmarks, because there appears to be no performance measure that captures the problems CLECs are experiencing. For example, when a CLEC ports a number, SWBT generally does not immediately disconnect the prior account. If SWBT does not immediately disconnect the prior account, SWBT directory assistance personnel will not allow the CLEC, now the customer's service provider, to make changes to the customer's listings. The inability to make changes that the customer has requested create a number of problems. First, if the customer wants to change his listing and SWBT has not taken the proper action to ensure that the CLEC and not SWBT is recognized as the service provider, the CLEC cannot make changes to the listing. If this occurs during the period when SWBT is issuing new books, the problem is not only with the DA listing. When the CLEC attempts to make requested changes to the customer's white page listing, the changes are not accepted. Although the linkage is not clear to the CLECs, the fact that SWBT has not completed all the work to disconnected the customer prior service, a process apparently prevents SWBT's systems from accepting the changes for the white page listing as well.[152]

In addition, NEXTLINK lost at least one business customer, because the customer's listing dropped out of the database.[153] NEXTLINK's directory problems seem to be related to orders falling out for error resolution by the Error Resolution Team and remaining in error status for an indefinite period of time. When the order finally comes out of error status and a SOC is

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151 SWBT Brief in Support of Application, p. 11.

152 Although SWBT claims that "Facilities-based CLECs are able to review and correct" a customer's listing electronically, TWTC could not make any changes prior to the book being published because SWBT would not disconnect.

153 NEXTLINK Draper Affidavit at ¶ 8.

issued, SWBT eventually works the disconnect order and the customer is removed from the directory assistance database. When CLEC customers are dropped from the database and find out that important/potential customers are unable to reach them and this results in lost business, the CLEC is blamed for the error and may never be able to reestablish a business relationship with that customer.

ICG has also experienced problems. For instance, ICG customers periodically discover that their directory assistance listing has disappeared. While the frequency of the problem is not as great as some other problems ICG experiences, it is a continual, on-going issue that has resulted in negative customer service implications for ICG.[154] At least one customer, a medical practice, left ICG to return to SWBT after their listing was dropped. Another example is a multiple location customer in Austin, Texas where on one location discovered that it had lost its listing on July 9, 1999. On August 2, 1999, the customer then realized that its second location lost its listing. Unfortunately, by the time the customer discovers that the listing has been dropped, the customer actually might have lost its listing days or weeks before.

D. Checklist Item XI - Number Portability

1. Problems with Number Portability

On September 29, 1999, CLECs experienced a total outage of the Local Number Portability database that delayed orders for an entire day at a key end-of-the-month period for CLECs. SWBT claimed that systems capacity was the cause of the problem, and contends that it has reset its software parameters fixing the problem. SWBT also maintains that it is looking into the increasing number of porting orders, as well as the large size of orders, and how that affects its systems. CLECs learned that this database was taken down over the weekend of October 10-11, again without providing prior notification to the CLECs. Although the use of the NPAC database is at "parity" between SWBT and CLECs at this juncture, it is the CLECs who use the database and who are most affected by its capacity limitations.

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[154] ICG Rowling Affidavit at ¶ 34.

2. SWBT Induced Problems Related to CLEC to CLEC Porting

As new carriers enter the local telecommunications market in Texas, not only does competition occur between CLECs and the incumbent SWBT, but CLECs are also competing with each other in the marketplace. Yet, even when a CLEC wins a customer from another CLEC, the underlying loop facility is still a SWBT loop.[155] Thus, under this scenario, end user customers that choose to switch service providers from one CLEC to another CLEC do not realize that both of these competitors must still rely on the incumbent SWBT to assist in the porting process of switching the customer's loop to the new CLEC service provider.[156]

As of this date, it has been NEXTLINK's experience that SWBT has no formal process in place to handle CLEC to CLEC ports utilizing an underlying SWBT loop facility or number. Upon receiving notice, on several occasions, of NEXTLINK's intent to perform a CLEC to CLEC port using a SWBT number or facility, SWBT personnel at its LSC have demonstrated a clear lack of knowledge or ability to assist in CLEC to CLEC port transactions.[157]

For example, when NEXTLINK has sent LSRs to SWBT to modify the directory assistance information in a CLEC to CLEC port scenario, SWBT has sent back to NEXTLINK error messages indicating that NEXTLINK is not that customer's local exchange carrier. While SWBT is technically correct, they fail to acknowledge their control over the directory assistance database that needs to be updated in a CLEC to CLEC port situation.[158]

NEXTLINK finds it troubling that, in a CLEC to CLEC port scenario, if SWBT provides the "last mile" of loop facilities to the old CLEC service provider, NEXTLINK currently can not

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155 An issue related to the CLEC to CLEC porting problems is that in instances where facilities have not been installed, the CLECs request to port a customer's number must be supplemented in order to prevent the customer from losing dial tone. Based on scheduled LNP cuts for one week, 50% of the orders had a SWBT related problem that required the order to be supplemented. ICG Rowling Affidavit at ¶ 28.

156 NEXTLINK Draper Affidavit at ¶ 14.

157 *Id.*

158 *Id.*

directly communicate to SWBT the fact that, as the new CLEC service provider, it will need SWBT's loop facilities. This occurs because SWBT currently requires the old service provider to first disconnect the loop before NEXTLINK, as the new service provider, can order new facilities.

In order to provide service to a new customer in a CLEC to CLEC port situation, SWBT forces the new service provider to contact the previous CLEC service provider and request that the old service provider forward a letter of authorization ("LOA") to SWBT to release the telephone numbers to NEXTLINK. SWBT's practice of requiring LOAs before releasing telephone numbers is unacceptable from a business perspective, because it is unnecessarily burdensome and time consuming, and impairs a CLEC's ability to provide service on a timely basis.[159]

SWBT'S Entry Into the InterLATA Market In Texas Is Not In the Public Interest

Section 271(d)(3) of the Act provides that the Commission may not approve a section 271 application unless, among other things, the requested authorization is consistent with the public interest, convenience, and necessity. The public interest analysis is an independent element of the statutory checklist.[160] The Commission's inquiry requires considering whether factors exist that would frustrate the Congressional intent of an open market, including assessing whether conditions are such that the local market *will remain open.*[161] Thus, the Commission could find that SWBT had satisfied each and every item on the fourteen point checklist and still not grant the Application.[162]

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159 *Id.*

160 *Bell Atlantic New York Order* at ¶ 423.

161 *Bell Atlantic New York Order* at ¶ 423 (emphasis added), also s*ee Ameritech Michigan Order* at ¶ 361.

162 As the Commission stated in the *Ameritech Michigan Order* at ¶ 390: "Although the competitive checklist prescribes certain, minimum access and interconnection requirements necessary to open the local exchange to competition, we believe that compliance with the checklist will not necessarily assure that all barriers to entry to the local telecommunications market have been

The Commission's analysis is not a summary review of the competitive checklist items. It requires that all relevant factors,[163] including the following be considered: (1) whether all pro-competitive entry strategies are available to new entrants, including a variety of arrangements (interconnection, UNEs and resale) available to different classes of customers (business and residential) in different geographic regions in different scales of operation;[164] (2) whether a BOC is making these entry methods and strategies available, through contract or otherwise, to any other requesting carrier upon the same rates, terms and conditions;[165] (3) whether the BOC has agreed to performance monitoring which permits benchmarking and self-executing enforcement mechanisms;[166] (4) whether the BOC has provided for optional payment plans for the payment of non-recurring charges that would ease the financial burden of market entry;[167] (5) the existence of state or local laws that affect market entry including, but not limited to, laws that affect rights-of-way;[168] and (6) the existence of discriminatory or anti-competitive behavior or violation of any state or federal telecommunications law.[169]

The crux of the Commission's public interest analysis is whether all barriers to entry into the local telecommunications market have been eliminated and whether the market will *continue* to remain open once 271 authorization is granted. As discussed above and in the Comments of the Association for Local Telecommunications Services (ALTS), SWBT's performance measures are one tool that can be used to address discriminatory behavior on the part of SWBT.

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eliminated, or that a BOC will continue to cooperate with new entrants after receiving in-region, interLATA authority."

163 *See, BellSouth Louisiana Order* at ¶ 361.

164 *See, Ameritech Michigan Order* at ¶¶ 387, 391.

165 *See, Id.*at ¶ 392.

166 *See, Id.*at ¶¶ 393-94; *BellSouth Louisiana Order* at ¶¶ 363-64; *see also, Bell Atlantic New York Order* at ¶ 429 and ¶ 430.

167 *See, Ameritech Michigan Order* at ¶ 395.

168 *See, Id.* at ¶ 396.

169 *See, Id.* at ¶ 397.

Unfortunately, SWBT's Performance Remedy Plan does not capture critical problems experienced by CLECs and it alone does not provide sufficient incentives to deter SWBT from engaging in discrimination once 271 authority is received. Because SWBT and its CLEC affiliate enjoy significant regulatory freedom as a result of recent changes in state law, the Commission must ensure that anti-backsliding measures and enforcement mechanisms are implemented, as recommended by ALTS.

Conclusion

CLECs do not consider a market in which they cannot timely and sufficiently expand their networks and one in which their customers are subjected to loss of dial tone, missed due dates and other ordering and provisioning inaccuracies to be "irreversibly open." SWBT must satisfy the Checklist Items it has missed to date and overcome pervasive and systemic problems in its OSS before it is able to meet the requirements of section 271. In order to process high volumes of orders, it is critical that orders flow through without manual handling. The fact that a significant amount of manual processing occurs indicates that SWBT's OSS suffers from human error and poor system design. Telcordia either prematurely "closed" items or failed to review items because the issue involved manual processes. In either event, CLECs and local competition lose. Approval of SWBT's 271 application at this time would be premature and contrary to the public interest.

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Attachment A

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TABS 1-29